



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2019-0893]

RIN 1625-AA08

Special Local Regulation; Beauty and the Beast Triathlon; Christiansted Harbor, St. Croix, Virgin Island

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a special local regulation on the waters of Christiansted Harbor, St Croix, Virgin Islands during the Beauty and the Beast Triathlon. Approximately 150 competitive swimmers are anticipated to participate in the race. The special local regulation is necessary to ensure the safety of race participants, participant vessels, and the general public during the event. The special local regulation establishes a race area, where all persons and vessels, except those persons and vessels who are participating in or supporting the race, will be prohibited from entering, transiting through, anchoring in, or remaining within unless authorized by the Captain of the Port San Juan or a designated representative.

DATES: This rule is effective from December 8, 2019 from 6:30 a.m. through 10:00 a.m.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2019-0893 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LCDR Pedro Mendoza, Sector San Juan Prevention Department, Waterways Management division, U.S. Coast Guard; telephone 787-729-2374, email Pedro.L.Mendoza@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. The event is scheduled for December 8, 2019, and the Coast Guard was notified of the event on November 6, 2019. The Coast Guard did not have adequate time or information to timely process the course race and propose a special local regulation. Any delay in the effective date of this rule would be impracticable and contrary to the public interest because immediate action is needed to minimize potential hazards to the race participants, participant vessels, spectators and the general public.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this

rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to public interest because it would delay the safety measures necessary to respond to potential safety hazards associated with this marine event. Immediate action is needed protect participants, spectators, and other persons and vessels during the triathlon.

III. Legal Authority and Need for Rule

The Coast Guard is Issuing this rule under authority in 46 U.S.C. 70041. The purpose of the rule is to ensure safety of life on navigable waters of the United States during the Beauty and the Beast Triathlon on December 8, 2019.

IV. Discussion of the Rule

This rule establishes a temporary special local regulation. VI TRI is sponsoring the Beauty and the Beast Triathlon – a triathlon with approximately 150 competitors. The swim portion of the race will take place at Christiansted Harbor, St. Croix, Virgin Islands. Small vessel craft including small boats and kayaks will be operating in the immediate area as safety platforms.

This special local regulation encompasses certain waters of Christiansted Harbor, St Croix, Virgin Islands. The special local regulation will be enforced from 6:30 a.m. until 10:00 a.m. on December 8, 2019. During the enforcement period, the special local regulation will consist of a race area, which will exclude the presence of any and all non-race participants and non-safety vessels. Non-participants and non-safety vessels will be prohibited from entering, transiting through, anchoring in, or remaining within the area unless authorized by the Captain of the Port (COTP) San Juan by telephone at (787) 289-2041 or a designated representative via VHF radio on Channel 16.

If authorization is granted by the COTP San Juan or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the COTP San Juan or a designated representative. The Coast Guard will provide notice of the regulated areas by Broadcast Notice to Mariners, and on-scene designated representatives.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

The economic impact of this rule is not significant for the following reasons: (1) the special local regulation will be enforced for a three and a half hour period and is thus limited in time; (2) although persons and vessels will not be able to enter, transit through, anchor in, or remain within the race area, without authorization from the COTP San Juan or a designated representative, they may operate in the surrounding area during the enforcement period; (3) persons and vessels may still enter, transit through, anchor in, or remain within the race areas, during the enforcement period if authorized by the COTP San Juan or a designated representative;

and (4) the Coast Guard will provide advance notification of the special local regulation to the local maritime community by Broadcast Notice to Mariners.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the special local regulation may be small entities, for the reason stated in section V.A. above, this rule will not have a significant economic impact on any vessel owner or operator

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast

Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please call or email the person listed in the FOR FURTHER INFORMATION CONTACT section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the

aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves creation of a special local regulation in conjunction with a regatta or a marine parade to ensure the safety of race participants, participant vessels and the general public during the event. It is categorically excluded from further review under paragraph L61 in Table 3-1 of U.S. Coast Guard Environmental Planning Implementing Procedures. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under ADDRESSES.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as

follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05-1.

2. Add § 100.T799-0893 to read as follows:

§ 100.T799-0893 Special Local Regulation; Beauty and the Beast Triathlon; Christiansted Harbor, St. Croix, Virgin Islands.

(a) Regulated areas. The following regulated areas are established as a special local regulation. All coordinates are North American Datum 1983.

(1) Triathlon swim race area. All waters of Christiansted Harbor encompassed within the following points: Starting at point 1 in position 17°44.93'N, 64°42.17'W; thence east northeast to Point 2 in position 17°45.254'N, 64°41.953'W; thence south-southeast to point 3 in position 17°45.239'N, 64°41.935'W; thence south-southwest to point 4 in position 17°44.895'N, 66°42.008'W; thence northwest to point 5 in position 17°44.851'N, 64°42.172'W; and northeast back to origin.

(2) [Reserved]

(b) Definition. The term “designated representative” means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, State, and Local officers designated by or assisting the Captain of the Port (COTP) San Juan in the enforcement of the regulated areas.

(c) Regulations. (1) Except for those persons and vessels participating in the race or enforcing the special local regulation in this section, all persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within a 25-yard radius of the area.

(2) Persons and vessels may request authorization to enter, transit through, anchor in, remain within the regulated area by contacting the COTP San Juan by telephone at (787) 289-2041, or a designated representative via VHF radio on channel 16. If authorization is granted by the COTP San Juan or a designated representative, all persons and vessels, receiving such authorization must comply with the instructions of the COTP San Juan or a designated representative.

(3) Vessels are prohibited from entering or transiting in the spectator area at speeds that cause wake.

(d) Information broadcasts. The Coast Guard will provide notice of the regulated areas by Broadcast Notice to Mariners and on-scene designated representatives.

(e) Enforcement period. This section will be enforced from 6:30 a.m. until 10:00 a.m. on December 8, 2018.

Dated: November 12, 2019.

E. P. King,
Captain, U.S. Coast Guard,
Captain of the Port San Juan.

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